

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

GARY INGRAM

Claimant

VS.

GARY INGRAM

Respondent

AND

FARM BUREAU MUTUAL INSURANCE COMPANY

Insurance Carrier

Docket No. 213,196

ORDER

Claimant appeals from an Award rendered by Administrative Law Judge John D. Clark on May 4, 1998. The Appeals Board heard oral argument October 9, 1998.

APPEARANCES

Claimant appeared pro se. Gary A. Winfrey of Wichita, Kansas, appeared on behalf of respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

The Administrative Law Judge found claimant failed to prove he suffered personal injury by accident on the date alleged. Benefits were denied. Claimant appeals from that finding. At oral argument, the parties agreed that if the Board concludes the decision of the Administrative Law Judge should be reversed and the claim found compensable, the Board should decide the following additional issues:

1. Did the relationship of employer/employee exist on the date of accident?
2. Did claimant purchase insurance for himself and elect coverage under the Act as a self-employed sole proprietor?
3. What is the nature and extent of claimant's injury and disability, if any?

4. What was claimant's average weekly wage?
5. Is claimant entitled to unauthorized and/or future medical expenses?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the Award should be affirmed and benefits denied.

The Board agrees with the determination of the Administrative Law Judge that claimant has failed to prove he suffered accidental injury arising out of and in the course of his employment. The Board does so for the reasons stated in the findings and conclusions by the Administrative Law Judge, which findings and conclusions are adopted by the Board as its own.

Claimant has alleged and testified to injury from an automobile accident on December 1, 1995. In general, the Board bases its conclusions on testimony of the other driver to the purported accident, Mr. Gordon B. Kinhead; the testimony of Mr. Theodore E. Ibarra who observed the vehicles; photographs of the vehicles; and the testimony of William B. Schnick, E.I.T., the accident reconstruction expert. Based on this and other testimony described in more detail in the Award, the Board finds and concludes claimant has not met his burden of proving by a preponderance of the credible evidence that he suffered accidental injury arising out of and in the course of his employment.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge John D. Clark on May 4, 1998, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Gary Ingram, Wichita, KS
Gary A. Winfrey, Wichita, KS
John D. Clark, Administrative Law Judge

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Philip S. Harness, Director